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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT YAKIMA**

MICHAEL SCOTT BRUMBACK,
an individual, et al.,

Plaintiffs,

v.

ROBERT W. FERGUSON, in his
official capacity as Washington
State Attorney General, et al.,

Defendants.

NO. 1:22-cv-03093-MKD

DECLARATION OF LOUIS
KLAREVAS IN SUPPORT OF
DEFENDANTS' OPPOSITION
TO PLAINTIFFS' MOTION FOR
INJUNCTIVE AND
DECLARATORY RELIEF

NOVEMBER 23, 2022
With Oral Argument: 11:00 a.m.

I, Louis Klarevas, declare under penalty of perjury under the laws of the
United States that the information in this declaration is true:

1. I am over the age of 18, competent to testify as to the matters in my
declaration, and make this declaration based on my personal knowledge.

I. BACKGROUND AND QUALIFICATIONS

2. I am a security policy analyst and, currently, Research Professor at Teachers College, Columbia University, in New York. I am also a founding member of the Columbia University Scientific Union for the Reduction of Gun Violence (SURGE) as well as a member of the Regional Gun Violence Research Consortium at the State University of New York's Nelson A. Rockefeller Institute of Government.

3. I am the author of the book *Rampage Nation*, one of the most comprehensive studies on mass shootings in the United States.¹ I also lead what I believe to be the only peer-reviewed study on the relationship between large-capacity magazines ("LCMs" hereinafter), legal restrictions on LCMs, and mass shooting violence, controlling for whether or not high-fatality mass shootings involved LCMs.² In addition, I am a co-investigator of a research project on school shootings funded by the National Institutes of Health. My current research examines the nexus between American public safety and gun violence.

¹Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016).

²Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990–2017*, 109 Am. J. of Pub. Health 1754 (2019), <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311>.

4. I am a political scientist by training, with a B.A. from the University of Pennsylvania and a Ph.D. from American University. During the course of my nearly 25-year career as an academic, I have served on the faculties of the George Washington University, the City University of New York, New York University, and the University of Massachusetts. I have also served as a Defense Analysis Research Fellow at the London School of Economics and Political Science and as United States Senior Fulbright Scholar in Security Studies at the University of Macedonia.

II. OPINION

7. It is my professional opinion, based upon my extensive review and analysis of data since 1990, that: (1) gun massacres—mass shootings that result in the death of six or more people, not including the perpetrator(s)—presently pose the deadliest criminal threat to the safety of American society, and the problem is growing; (2) gun massacres involving LCMs—which are ammunition-feeding devices that hold more than 10 rounds of ammunition—

1 have resulted, on average, in a greater loss of life than gun massacres that did not
2 involve LCMs; and (3) jurisdictions that restrict LCMs experienced fewer gun
3 massacres, per capita, than jurisdictions that did not restrict LCMs.³ As a result,
4 restrictions on LCMs have the potential to significantly reduce the number of
5 lives lost in mass shootings.⁴

6
7 ³In my book *Rampage Nation*, I defined a mass shooting as “any violent
8 attack that results in four or more individuals incurring gunshot wounds.” I then
9 differentiated between three different categories of mass shooting: (1) Nonfatal
10 are those mass shootings in which no one dies; (2) Fatal are those mass shootings
11 in which at least one victim dies; and (3) High-Fatality are those mass shootings
12 in which six or more victims die. Throughout my book and in this Declaration, I
13 use the terms “high-fatality mass shooting” and “gun massacre” interchangeably.
14 Of the three categories of mass shootings, gun massacres are the deadliest,
15 resulting in the highest fatality tolls per individual incidents. Klarevas, *supra*
16 note 1. A table from *Rampage Nation* defining mass shootings is reproduced in
17 **Exhibit B.**

18 ⁴Magazines can come in a variety of capacities, including but not limited
19 to 5, 8, 10, 15, 17, 20, 30, 40, 50, and even 100 rounds. Most states, including
20 Washington, define LCMs as ammunition-feeding devices holding more than
21 10 rounds of ammunition. However, three states define LCMs using a higher
22 capacity: Vermont (over 15 rounds for handguns, but over 10 rounds for long

A. Gun Massacres Are a Growing Threat to Public Safety

8. An examination of the 10 deadliest individual acts of intentional criminal violence in the United States since the coordinated terrorist attack of September 11, 2001, reveals a clear-cut pattern: Every act on the list is a mass shooting (Table 1).

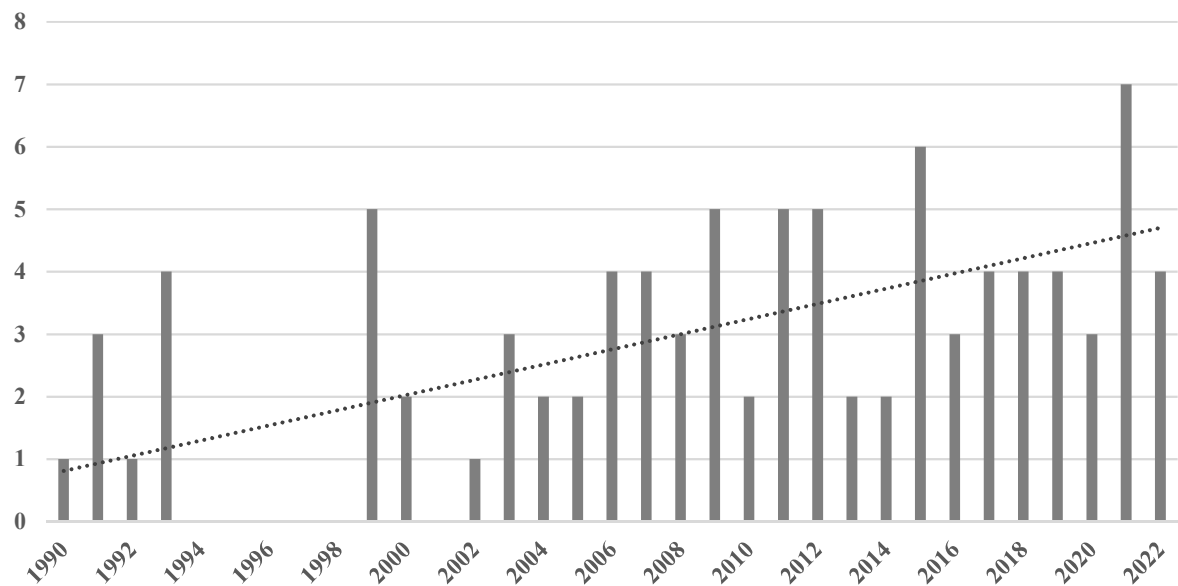
Table 1
The 10 Deadliest Acts of Intentional Criminal Violence in U.S. since 9/11

	Deaths	Date	Location	Involved LCM(s)
1	60	October 1, 2017	Las Vegas, NV	✓
2	49	June 12, 2016	Orlando, FL	✓
3	32	April 16, 2007	Blacksburg, VA	✓
4	27	December 14, 2012	Newtown, CT	✓
5	25	November 5, 2017	Sutherland Springs, TX	✓
6	23	August 3, 2019	El Paso, TX	✓
7	21	May 24, 2022	Uvalde, TX	✓
8	17	February 14, 2018	Parkland, FL	✓
9	14	December 2, 2015	San Bernardino, CA	✓
10	13	April 3, 2009	Binghamton, NY	✓
10	13	November 5, 2009	Fort Hood, TX	✓

guns), Colorado (over 15 rounds), and Delaware (over 17 rounds). *See* Giffords Law Center to Prevent Gun Violence, Large Capacity Magazines, <https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines> (last visited Oct. 20, 2022). For purposes of this Declaration, unless otherwise stated, LCMs are defined in a manner that is consistent with Washington’s statutory definition: ammunition-feeding devices holding more than 10 rounds of ammunition. Wash. Rev. Code 9.41.010(16) (2022).

9. Extending the window of examination back a little further, to 1990, shows that gun massacres are a growing problem (Table 2). In the 1990s, the rate of occurrence was 1.4 gun massacres per year. In the 2020s, the rate of occurrence is 5.0 gun massacres per year. While the population of the United States grew about 25 percent during this timeframe—from an average of approximately 265 million people in the 1990s to an average of approximately 332 million people in the 2020s—such growth pales in comparison to the jump in gun massacre events, which increased 257 percent from the 1990s to the 2020s. Charting the annual occurrence of gun massacres illustrates that the overall trend is upward (Fig. 1).

Figure 1
The Trend in Annual Gun Massacre Incidents in the United States, 1990–2022⁵



⁵Data for 2022 only covers January 1 through September 30.

10. A similar pattern holds for fatalities that result from gun massacres (Table 2). The average for the decade of the 1990s was 12.4 deaths per year. In the 2020s, an average of 41 lives are lost annually as a result of gun massacres. This marks a 230 percent increase between the two timeframes. As with annual gun massacre occurrences, annual gun massacre deaths also exhibit an upward trend (Fig. 2).

Table 2
Gun Massacres in the United States, 1990–2022⁶

	Date	City	State	Deaths	Involved LCM(s)
1	6/18/1990	Jacksonville	FL	9	Y
2	1/26/1991	Chimayo	NM	7	N
3	8/9/1991	Waddell	AZ	9	N
4	10/16/1991	Killeen	TX	23	Y
5	11/7/1992	Morro Bay and Paso Robles	CA	6	N
6	1/8/1993	Palatine	IL	7	N
7	5/16/1993	Fresno	CA	7	Y
8	7/1/1993	San Francisco	CA	8	Y
9	12/7/1993	Garden City	NY	6	Y
10	4/20/1999	Littleton	CO	13	Y
11	7/12/1999	Atlanta	GA	6	U
12	7/29/1999	Atlanta	GA	9	Y
13	9/15/1999	Fort Worth	TX	7	Y

⁶Gun massacres are high-fatality mass shootings resulting in six or more fatalities, not including the perpetrator(s), regardless of location or motive. Gun massacres were coded as involving an LCM if at least one of the weapons used to perpetrate the shooting was armed with an ammunition-feeding device holding more than 10 rounds of ammunition. Incidents in gray shade are those incidents

	Date	City	State	Deaths	Involved LCM(s)
14	11/2/1999	Honolulu	HI	7	Y
15	12/26/2000	Wakefield	MA	7	Y
16	12/28/2000	Philadelphia	PA	7	Y
17	8/26/2002	Rutledge	AL	6	N
18	1/15/2003	Edinburg	TX	6	U
19	7/8/2003	Meridian	MS	6	N
20	8/27/2003	Chicago	IL	6	N
21	3/12/2004	Fresno	CA	9	N
22	11/21/2004	Birchwood	WI	6	Y

that occurred at a time when and in a state where legal prohibitions on LCMs were in effect statewide or nationwide. For purposes of coding, between September 13, 1994, and September 12, 2004, the federal assault weapons ban, which also restricted LCMs, was in effect. During that 10-year period, all 50 states and the District of Columbia were under legal conditions that prohibited certain LCMs. As such, the entire country, including the District of Columbia (which is treated as a state-level jurisdiction), is coded as being under an LCM ban during the timeframe that the federal assault weapons ban was in effect. See Louis Klarevas, *Rampage Nation: Securing America from Mass Shootings* (2016); Louis Klarevas, et al., *The Effect of Large-Capacity Magazine Bans on High-Fatality Mass Shootings, 1990–2017*, 109 Am. J. of Pub. Health 1754 (2019), <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305311>; Gun Violence Archive, <https://www.gunviolencearchive.org> (last visited Oct. 20, 2022). The Gun Violence Archive was only consulted for identifying high-fatality mass shootings that occurred since January 1, 2018.

1		Date	City	State	Deaths	Involved LCM(s)
2	23	3/12/2005	Brookfield	WI	7	Y
3	24	3/21/2005	Red Lake	MN	9	Y
4	25	1/30/2006	Goleta	CA	7	Y
5	26	3/25/2006	Seattle	WA	6	N
6	27	6/1/2006	Indianapolis	IN	7	Y
7	28	12/16/2006	Kansas City	KS	6	N
8	29	4/16/2007	Blacksburg	VA	32	Y
9	30	10/7/2007	Crandon	WI	6	Y
10	31	12/5/2007	Omaha	NE	8	Y
11	32	12/24/2007	Carnation	WA	6	U
12	33	2/7/2008	Kirkwood	MO	6	Y
13	34	9/2/2008	Alger	WA	6	U
14	35	12/24/2008	Covina	CA	8	Y
15	36	1/27/2009	Los Angeles	CA	6	N
16	37	3/10/2009	Kinston, Samson, and Geneva	AL	10	Y
17	38	3/29/2009	Carthage	NC	8	N
18	39	4/3/2009	Binghamton	NY	13	Y
19	40	11/5/2009	Fort Hood	TX	13	Y
20	41	1/19/2010	Appomattox	VA	8	Y
21	42	8/3/2010	Manchester	CT	8	Y
22	43	1/8/2011	Tucson	AZ	6	Y
	44	7/7/2011	Grand Rapids	MI	7	Y
	45	8/7/2011	Copley Township	OH	7	N
	46	10/12/2011	Seal Beach	CA	8	N
	47	12/25/2011	Grapevine	TX	6	N
	48	4/2/2012	Oakland	CA	7	N
	49	7/20/2012	Aurora	CO	12	Y
	50	8/5/2012	Oak Creek	WI	6	Y
	51	9/27/2012	Minneapolis	MN	6	Y
	52	12/14/2012	Newtown	CT	27	Y
	53	7/26/2013	Hialeah	FL	6	Y
	54	9/16/2013	Washington	DC	12	N
	55	7/9/2014	Spring	TX	6	Y
	56	9/18/2014	Bell	FL	7	U
	57	2/26/2015	Tyrone	MO	7	U
	58	5/17/2015	Waco	TX	9	Y
	59	6/17/2015	Charleston	SC	9	Y
	60	8/8/2015	Houston	TX	8	U

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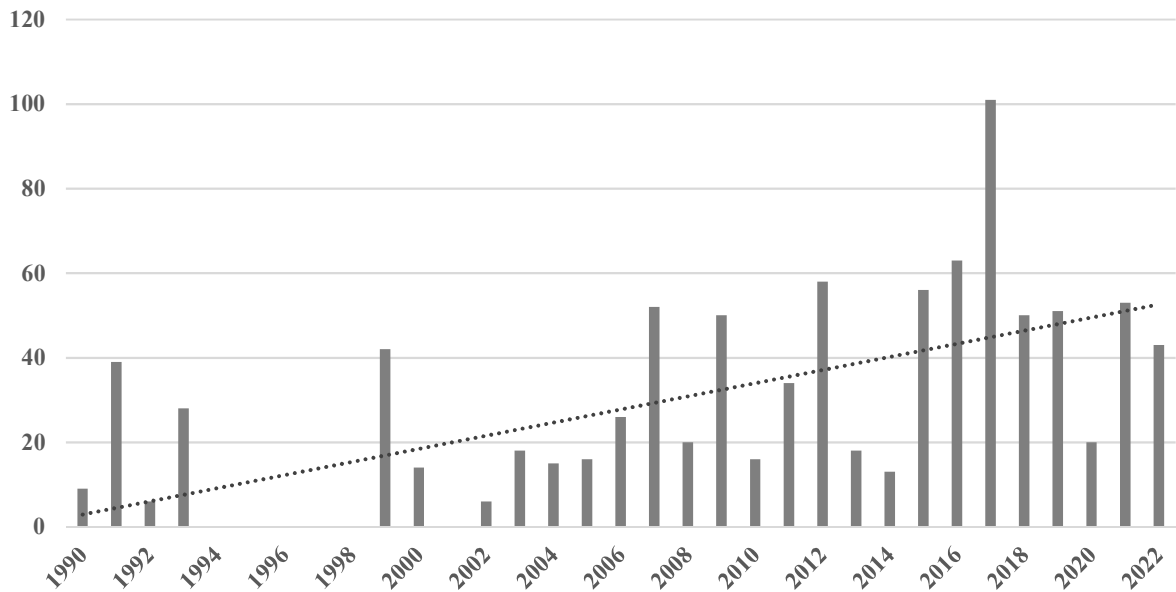
	Date	City	State	Deaths	Involved LCM(s)
61	10/1/2015	Roseburg	OR	9	Y
62	12/2/2015	San Bernardino	CA	14	Y
63	2/21/2016	Kalamazoo	MI	6	Y
64	4/22/2016	Piketon	OH	8	U
65	6/12/2016	Orlando	FL	49	Y
66	5/27/2017	Brookhaven	MS	8	Y
67	9/10/2017	Plano	TX	8	Y
68	10/1/2017	Las Vegas	NV	60	Y
69	11/5/2017	Sutherland Springs	TX	25	Y
70	2/14/2018	Parkland	FL	17	Y
71	5/18/2018	Santa Fe	TX	10	N
72	10/27/2018	Pittsburgh	PA	11	Y
73	11/7/2018	Thousand Oaks	CA	12	Y
74	5/31/2019	Virginia Beach	VA	12	Y
75	8/3/2019	El Paso	TX	23	Y
76	8/4/2019	Dayton	OH	9	Y
77	8/31/2019	Midland and Odessa	TX	7	Y
78	3/15/2020	Moncure	NC	6	U
79	6/4/2020	Valhermoso Springs	AL	7	Y
80	9/7/2020	Aguanga	CA	7	U
81	2/2/2021	Muskogee	OK	6	U
82	3/16/2021	Acworth and Atlanta	GA	8	U
83	3/22/2021	Boulder	CO	10	Y
84	4/7/2021	Rock Hill	SC	6	Y
85	4/15/2021	Indianapolis	IN	8	Y
86	5/9/2021	Colorado Springs	CO	6	Y
87	5/26/2021	San Jose	CA	9	Y
88	1/23/2022	Milwaukee	WI	6	U
89	4/3/2022	Sacramento	CA	6	Y
90	5/14/2022	Buffalo	NY	10	Y
91	5/24/2022	Uvalde	TX	21	Y
92	7/4/2022	Highland Park	IL	7	Y

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10

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Figure 2
The Trend in Annual Gun Massacre Deaths in the United States, 1990–2022⁷



11. The clear takeaway from this trend data is that mass shootings pose a grave threat to the United States, and the threat is growing.

B. LCMs Are a Major Factor in the Rise of Gun Massacre Violence

12. The data since 1990 indicate that gun massacres have grown in terms of frequency and lethality, posing a unique threat to the safety of the American people. The data also point to another striking pattern: LCMs contribute substantially to that threat. Returning to the 10 deadliest acts of mass murder since 9/11 in Table 1, every single one was a mass shooting involving an LCM.

⁷Data for 2022 only covers January 1 through September 30.

1 13. LCMs provide multiple advantages to active shooters. Offensively,
2 LCMs increase kill potential. Basically, the more bullets a shooter can fire at a
3 target within a finite amount of time, the more potential wounds they can inflict.
4 Furthermore, the more bullets that strike a victim, the higher the odds that that
5 person will die. There are two forces that allow LCMs to increase kill potential:
6 sustained-fire capability and multiple-impact capability.

7 14. When inserted into either a semiautomatic or fully-automatic
8 weapon, an LCM facilitates the ability of an active shooter to fire a large number
9 of rounds at an extremely quick rate without pause. This phenomenon—
10 sustained-fire capability—comes in handy when a target is in a gunman's line of
11 sight for only a few seconds. For example, sustained-fire capability allows a
12 reasonably competent shooter to fire three rounds per second with a
13 semiautomatic firearm and ten rounds per second with an automatic firearm. That
14 results in numerous chances to hit a target in a very short window of opportunity.

15 15. LCMs also facilitate the ability of a shooter to strike a human target
16 with more than one round. This phenomenon—multiple-impact capability—
17 increases the chances that the victim, when struck by multiple rounds, will die.
18 At least two separate studies have found that, when compared to the fatality rates
19 of gunshot wound victims who were hit by only a single bullet, the fatality rates
20
21
22

1 of those victims hit by more than one bullet were over 60 percent higher.⁸ The
2 implication is straightforward: being able to strike human targets with more than
3 one bullet increases the shooter's chances of killing their victims. In essence,
4 LCMs are force multipliers when it comes to kill potential—and the evidence
5 from gun massacres supports this conclusion.

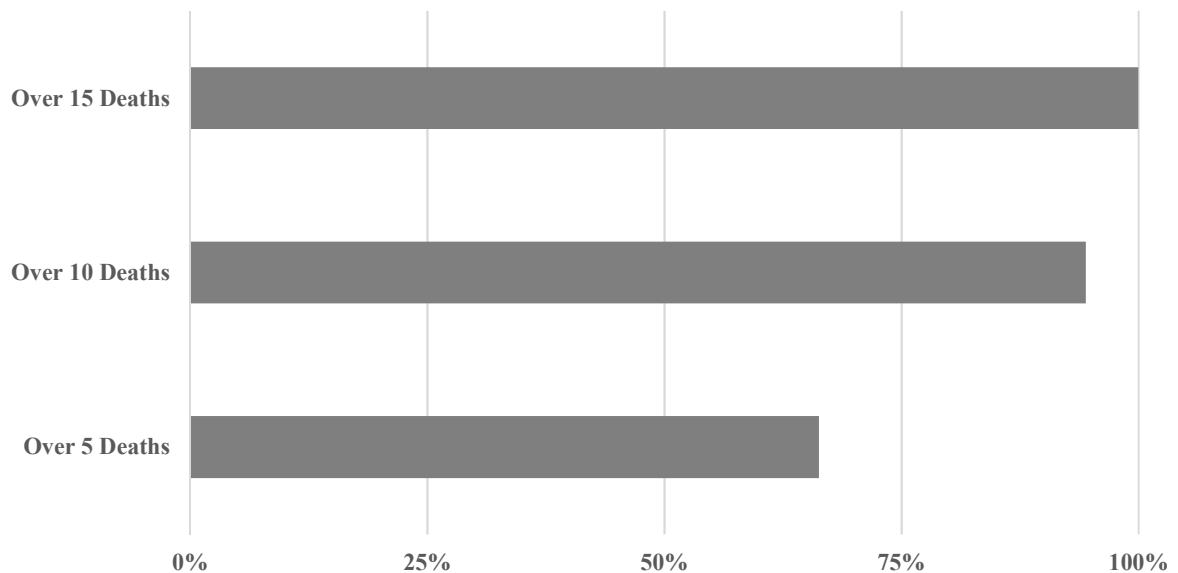
6 16. Of the 92 gun massacres since January 1, 1990, 61 involved LCMs,
7 resulting in 703 cumulative deaths (Table 2). In contrast, 18 gun massacres did
8 not involve LCMs. These 18 incidents resulted in 132 cumulative deaths.⁹ The
9 average death toll for the 61 gun massacres involving LCMs is 11.5 fatalities per
10 shooting, whereas the average death toll for the 18 incidents that did not involve
11 LCMs is 7.3 fatalities per shooting. In other words, the use of LCMs in massacres
12 resulted in a 58 percent increase in average fatalities per incident. Moreover,
13 since 1990, while LCMs have been used in nearly 66 percent of all gun
14 massacres, they have used in 94 percent of gun massacres resulting in more than
15

16 ⁸Daniel W. Webster, et al., *Epidemiologic Changes in Gunshot Wounds in*
17 *Washington, DC, 1983–1990*, 127 *Archives of Surgery* 694–698 (June 1992),
18 reproduced in **Exhibit C**; see also, Angela Sauaia, et al., *Fatality and Severity of*
19 *Firearm Injuries in a Denver Trauma Center, 2000–2013*, 315 *J. of the Am. Med.*
20 *Ass'n* 2465–2467 (June 14, 2016), reproduced in **Exhibit D**.

21 ⁹There was also 13 gun massacres, resulting in 87 cumulative deaths, in
22 which the magazine capacity could not be determined (Table 2).

1 10 deaths and 100 percent of all gun massacres resulting in more than 15 deaths—
 2 establishing a relationship between LCMs and the deadliest gun massacres (Fig.
 3 3).

4 **Figure 3**
 5 **Percentage of Gun Massacres Involving LCMs by Fatality Threshold,**
 6 **1990–2022**



15 17. In addition to the offensive advantages that LCMs provide, there is
 16 the defensive advantage of extended cover. During an active shooting, a
 17 perpetrator is either firing their gun or not firing their gun. While pulling the
 18 trigger, it is extremely difficult for those in harm's way to take successful
 19 defensive maneuvers. But if the shooter runs out of bullets, there is a lull in the
 20 shooting. This precious downtime affords those in the line of fire with a chance
 21 to flee, hide, or fight back.
 22

18. There are countless examples of individuals fleeing or taking cover while active shooters paused to reload. For instance, in 2012, several first-graders at Sandy Hook Elementary School in Newtown, Connecticut, escaped their attacker as he was swapping out magazines, allowing them to exit their classroom and dash to safety.¹⁰ There is also the possibility that someone will rush a rampage shooter and try to tackle them (or at the very least try to wrestle his weapon away from him) while they pause to reload.¹¹ In recent history, there have been numerous instances of active shooters being physically confronted by unarmed civilians while reloading, bringing their gun attacks to an abrupt end. Table 3 contains a sampling of such examples.

¹⁰See Dave Altimari, et al., *Shooter Paused and Six Escaped*, Hartford Courant, Dec. 23, 2012, reproduced as **Exhibit E**.

¹¹The longer a shooter can fire without interruption, the longer they can keep potential defenders at bay. The longer potential defenders are kept from physically confronting a shooter, the more opportunity there is for the shooter to inflict damage.

Table 3
Examples of Shooters Who Were Physically Confronted While Reloading¹²

Date	Perpetrator	Target	Location
12/7/1993	Colin Ferguson	Long Island Rail Road	Garden City, NY
10/29/1994	Francisco Duran	White House	Washington, DC
5/21/1998	Kipland Kinkel	Thurston High School	Springfield, OR

¹²Rich Schapiro, *LIRR Massacre 20 Years Ago: 'I Was Lucky,' Says Hero Who Stopped Murderer*, New York Daily News, Dec. 7, 2013, <http://www.nydailynews.com/new-york/nyc-crime/lirr-massacre-20-years-lucky-hero-stopped-murderer-article-1.1540846>; Eric Schmitt, *Gunman Shoots at White House from Sidewalk*, New York Times, Oct. 30, 1994, <http://www.nytimes.com/1994/10/30/us/gunman-shoots-at-white-house-from-sidewalk.html>; Timothy Egan, *Oregon Student Held in 3 Killings; One Dead, 23 Hurt at His School*, New York Times, May 22, 1998, <http://www.nytimes.com/1998/05/22/us/shootings-school-overview-oregon-student-held-3-killings-one-dead-23-hurt-his.html>; Ken Ritter, *Trial Begins in Las Vegas Casino Gunfire Case*, San Diego Union-Tribune, July 7, 2009, <http://www.sandiegouniontribune.com/sdut-us-casino-shooting-trial-070709-2009jul07-story.html>; *Report: Capitol Gunfire Suspect Tried Reloading*, Huntsville Item, Jan. 22, 2010, http://www.itemonline.com/news/local_news/report-capitol-gunfire-suspect-tried-reloading/article_7f321cc6-170e-578c-928f-fbc702f1228a.html; Adam Nagourney, *A Single, Terrifying Moment: Shots Fired, a Scuffle*

1	7/6/ 2007	Steven Zegrean	New York-New York Casino	Las Vegas, NV
	1/21/ 2010	Fausto Cardenas	Texas State Capitol	Austin, TX
2	1/8/2011	Jared Loughner	Gabrielle Giffords Event	Tucson, AZ
3	6/5/2014	Aaron Ybarra	Seattle Pacific University	Seattle, WA

C. Restrictions on LCMs Result in Fewer Gun Massacres

19. Around lunchtime on January 17, 1989, a man opened fire on children enjoying recess on the playground at Cleveland Elementary School in Stockton, California. Using an AK-47-like assault rifle and LCMs, the gunman fired over 100 rounds in under three minutes, before committing suicide. The attack left five dead and another 32 wounded. All five of the murder victims and 29 of the 30 surviving gunshot-wound victims were children, mostly of Cambodian or Vietnamese parents who had immigrated to the United States.¹³ In

and Some Luck, New York Times, Jan. 10, 2011, <http://www.nytimes.com/2011/01/10/us/10reconstruct.html>; Joe Kemp, *Student Hailed Hero for Tackling Gunman Who Opened Fire in Seattle Pacific University, Killing One*, New York Daily News, June 6, 2014, <http://www.nydailynews.com/news/crime/student-ailed-hero-tackling-gunman-opened-fire-seattle-pacific-university-killing-article-1.1819485>.

¹³ Jay Mathews, *Legacy of a Schoolyard Turned Killing Ground*, Washington Post, Jan. 14, 1990, <https://www.washingtonpost.com/archive/politics/1990/01/14/legacy-of-schoolyard-turned-killing-ground/71679761-7402-4d39-a118-830255609680>.

1 an effort to prevent future mass shootings like the Stockton rampage, several state
2 legislatures and the U.S. Congress began discussing restrictions on assault
3 weapons and LCMs.¹⁴ On March 30, 1990, New Jersey became the first state to
4 regulate LCMs.¹⁵ Eleven states and the District of Columbia have since followed
5 suit: Hawaii (July 1, 1992), Maryland (June 1, 1994), Massachusetts (July 23,
6 1998), California (January 1, 2000), New York (November 1, 2000),
7 Washington, D.C. (March 31, 2009), Connecticut (April 4, 2013), Colorado
8 (July 1, 2013), Vermont (April 11, 2018), Rhode Island (June 21, 2022),
9 Washington (July 1, 2022), and Delaware (August 29, 2022).

10 20. Following another high-profile gun massacre, perpetrated with
11 assault weapons and LCMs, that claimed eight lives at a San Francisco law firm
12
13
14

15 ¹⁴Christopher Ingraham, *The Real Reason Congress Banned Assault*
16 *Weapons in 1994—and Why It Worked*, Washington Post, Feb. 22, 2018,
17 [https://www.washingtonpost.com/news/wonk/wp/2018/02/22/the-real-reason-](https://www.washingtonpost.com/news/wonk/wp/2018/02/22/the-real-reason-congress-banned-assault-weapons-in-1994-and-why-it-worked)
18 [congress-banned-assault-weapons-in-1994-and-why-it-worked](https://www.washingtonpost.com/news/wonk/wp/2018/02/22/the-real-reason-congress-banned-assault-weapons-in-1994-and-why-it-worked).

19 ¹⁵While some states, beginning in the 1920s, enacted laws that regulated
20 specific types of firearms based on the number of rounds they could fire without
21 reloading, the first state to regulate ammunition-feeding devices holding more
22 than 10 rounds (i.e., LCMs) was New Jersey in 1990.

1 in 1993, the United States enacted the federal Assault Weapons Ban (AWB).¹⁶
2 The law, which was in effect for only a ten-year period before sun-setting
3 (September 13, 1994–September 12, 2004), regulated certain firearms and their
4 components. Among its provisions, the federal AWB prohibited the manufacture,
5 sale, transfer, or possession of *new* magazines with a capacity greater than
6 10 rounds.¹⁷ While the federal ban was in effect, the entire country was under an
7 LCM ban. While the nationwide restrictions are no longer in place, because of
8 the various state bans, approximately 31 percent of the United States population
9 remains subject to legal restrictions on LCMs.

10 21. In terms of reducing mass shooting violence, there are at least two
11 rationales for restricting magazine capacity. First, because LCMs, on average,
12 produce higher death tolls in gun massacres, limiting magazine capacity aims to
13 reduce the loss of life attributable to the increased kill potential of LCMs. Second,
14 because LCMs allow an shooter to fire more bullets without interruption,
15

16 ¹⁶Pub. L. No. 103-322, Title XI, subtit. A, 108 Stat. 1796 (1996–2010)
17 (codified as former 18 U.S.C. §§ 922(v), (w)(1) (1994)). For a review of state
18 laws that regulate LCMs, *see* Law Center to Prevent Gun Violence, Large
19 Capacity Magazines, *supra* note 2.

20 ¹⁷Magazines lawfully in circulation prior to the AWB’s date of effect
21 (September 13, 1994) were exempted (i.e., grandfathered) from the ban.
22 Former 18 U.S.C. § 922(v)(2) (1994).

1 resulting in fewer opportunities for potential victims to take life-saving measures,
2 limiting magazine capacity aims to create conditions which force a shooter to
3 pause in order to reload fresh magazines. This, in turn, provides authorities and
4 civilians with precious seconds that can be exploited to escape, seek cover, or
5 take other defensive measures, including attacking the shooter.

6 22. Concerned by the threat posed by firearm violence to “the public
7 health and safety of Washingtonians,” in 2022, the State of Washington enacted
8 statewide prohibitions on the manufacture, importation, distribution, and sale of
9 LCMs.¹⁸ Finding that “[f]irearms equipped with large capacity magazines
10 increase casualties by allowing a shooter to keep firing for longer periods of time
11 without reloading,” the Washington Legislature took action that mirrored the
12 steps taken by other states that had implemented LCM bans in an effort to reduce
13 violent crime, particularly mass shootings.¹⁹

14 23. In the field of epidemiology, a common method for assessing the
15 impact of laws and policies is to measure the rate of onset of new cases of an
16 event, comparing the rate when and where the laws and policies were in effect
17 against the rate when and where the laws and policies were not in effect. This
18 measure, known as the incidence rate, allows public health experts to identify
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20 ¹⁸ESSB 5078, 67th Leg., Reg. Sess. (Wash. 2021), statutorily codified at
21 Wash. Rev. Code § 9.41 (2022).

22 ¹⁹2022 Wash. Sess. Laws, ch. 104, § 1.

discernable differences, while accounting for variations in the population, over a set period of time. Relevant to the present case, calculating incidence rates across jurisdictions, in a manner that captures whether or not LCM bans were in effect during the period of observation, allows for the assessment of the effectiveness of such bans. In addition, fatality rates—the number of deaths, per population, that result from particular events across different jurisdictions—also provide insights into the impact of LCM bans on mass shootings.²⁰

24. Since 1990, when the first state ban on LCMs took effect, through September 30, 2022, there have been 92 gun massacres in the United States (Table 2).²¹ Calculating incidence and fatality rates for this time-period, across

²⁰For purposes of this Declaration, incidence and fatality rates are calculated using methods and principles endorsed by the Centers for Disease Control. See Centers for Disease Control and Prevention, *Principles of Epidemiology in Public Health Practice: An Introduction to Applied Epidemiology and Biostatistics*, CDC (May 2012), <https://stacks.cdc.gov/view/cdc/13178>.

²¹While some states, beginning in the 1920s, enacted laws that regulated specific types of firearms based on the number of rounds they could fire without reloading, the first state to regulate ammunition-feeding devices holding more than 10 rounds (i.e., LCMs) was New Jersey in 1990. As such, there were no state

1 jurisdictions with and without bans on LCMs, reveals that states that restricted
2 LCMs experienced a 50 percent decrease in gun massacre incidence rates. They
3 also experienced a 62 percent decrease in gun massacre fatality rates, regardless
4 of the weaponry used by the mass murderers (Table 4).²²

5 25. When calculations go a step further and are limited to high-fatality
6 mass shootings involving LCMs, the difference between the two jurisdictional
7 categories (non-ban states and ban states) is even more pronounced. In the time-
8 period between January 1, 1990, and September 30, 2022, accounting for
9 population, states with LCM bans in place experienced 58 percent fewer gun
10 massacres involving the use of LCMs. Similarly, jurisdictions with bans in effect
11 experienced 69 percent fewer deaths resulting from gun massacres involving
12 LCMs (Table 4).

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16 bans on LCMs in effect prior to 1990. Therefore, *a priori*, 1990 is the logical
17 starting point for an analysis of the impact of LCMs bans.

18 ²²For purposes of coding, between September 13, 1994, and September 12,
19 2004, the federal AWB was in effect. During that 10-year period, all 50 states
20 and the District of Columbia were under legal conditions that prohibited certain
21 LCMs. As such, the entire country is coded as being under an LCM ban during
22 the timeframe that the federal AWB was in effect.

Table 4
Incidence and Fatality Rates for Gun Massacres, by Whether or Not LCM Bans Were in Effect (January 1, 1990–September 30, 2022)²³

	Annual Average Population (Millions)	Total Incidents	Annual Incidents per 100 Million Population	Total Deaths	Annual Deaths per 100 Million Population
All Gun Massacres					
Non-LCM Ban States	160.42	65	1.22	698	13.60
LCM Ban States	134.73	27	0.63	224	5.20
Percentage Decrease in Rate for LCM Ban States			50%		62%
Gun Massacres Involving LCMs					
Non-LCM Ban States	160.42	45	0.88	558	10.87
LCM Ban States	134.73	16	0.37	145	3.36
Percentage Decrease in Rate for LCM Ban States			58%		69%

26. The evidence shows that when LCM bans are in effect, per capita, fewer gun massacres occur and fewer people die in such attacks. The intent of LCM bans, including Washington's, is to restrict the circulation of LCMs. The reasoning is that, if there are fewer LCMs in circulation, then shooters will often be forced to use firearms with lower ammunition-capacities, resulting in attacks that do not kill enough victims to rise to the level of a gun massacre (six or more

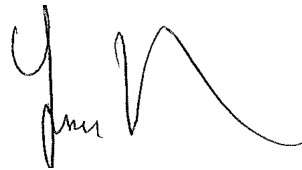
²³Population data are from United States Census Bureau, State Intercensal Data Sets, <https://www.census.gov/data/datasets.All.html> (last visited Oct. 20, 2022).

1 victims killed).²⁴ The data indicate that restrictions on LCMs enhance public
2 safety. While imposing constraints on LCMs will not result in the prevention of
3 all future mass shootings, taking steps to deny active shooters access to LCMs
4 will result in a substantial number of lives being saved.

5 I declare under penalty of perjury under the laws of the State of
6 Washington and the United States that the foregoing is true and correct.

7 DATED this 21st day of October 2022 at Queens, New York.

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LOUIS KLAREVAS

24For instance, a shooter armed with a five-shot revolver can, in theory, kill
five people without having to reload. However, to kill more people, that same
shooter would require a way to fire additional ammunition, and the most efficient
way to do so is to utilize a firearm armed with an LCM. Because potential victims
can take life-saving action during critical pauses in the shooting, restricting the
ability of shooters to deliver large capacities of ammunition without interruption
can result in fewer lives lost in shootings.

PROOF OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 24th day of October 2022 at Seattle, Washington.

s/ Andrew Hughes
ANDREW HUGHES, WSBA #49515
Assistant Attorney General